

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
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www.montgomerycountymd.gov/content/council/boa/index.asp

WORKSESSION MINUTES

Second Floor Davidson Memorial Hearing Room

Wednesday, October 22, 2008, 9:30 a.m.

ACTION ITEMS:

1. **Minutes**, October 8, 2008 Worksession.

Action: Approved as amended, (CGT/DKP, 4-0).

2. **Order Extending Time for the Board's Written Opinion** for 30 days is required in the following case:

(a) **A-6260, Petition of John Grant and Rosalie Bair** (two and one-half story addition). Hearing held 9/17/08.

Action: Granted order extending time, (DKP/WMH, 4-0).

3. **A-6157, Appeal of Soraya Karmand** (Historic Preservation Commission – Historic Area Work Permit No. 410892). Judgment Notice from the Circuit Court.

Action: Re-opened the record to include the Judgment Notice, (CGT/WMH, 4-0).

4. **CBA-679 [BZA-1008, CBA-962], Petition of Mariner Health of Maryland, Inc.** (nursing home). Memorandum to the Board from Barbara Piczak, Inspector, Department of Permitting Services (DPS) notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the property owner.

Action: Revoked the special exception as abandoned, (WMH/DKP, 4-0).

5. **CBA-716 [CBA-716-A, CBA-482, CBA-2952, CBA-2953], Petition of Chevy Chase Recreation Association, Inc.** (community swimming pool). Letter to the Board from Stuart Barr, Esquire, and April Birnbaum, Esquire, requesting an administrative modification [Large exhibits: existing conditions plan, site plan, detailed site plan, grading plan, stormwater management concept plan, lighting and photometric plan, amended forest conservation/tree save plan, detailed forest conservation/tree save plan (2 sheets), landscape and lighting plan, floor plan, elevations (2 sheets)].

Action: Granted the administrative modification, (DKP/CGT/4-0).

6. **CBA-1845, Petition of Quince Orchard Associates Inc.** (automobile filling station). Memorandum from Heather Gottke, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included is a letter of confirmation from the City of Gaithersburg.

Action: Revoked the special exception for lack of jurisdiction, (WMH/DKP, 4-0).

7. **S-274-C, Petition of Suburban Hospital** (hospital). Letter from Barbara Sears, Esquire, and Erin Girard, Esquire, in response to Conditions No. 4 and 6 of the Board's Resolution adopted dated 12/13/07. Also included is a letter from Amy Shiman, Board member, Huntington Terrace Citizens' Association.

Action: (1) Re-opened the record to include letters from Ms. Sears and Ms. Girard and Ms. Shiman; (2) applicant will submit report of all equipment compliance with the County's standards, (CGT/DKP, 3-0/WMH/recused).

8. **S-1243, Petition of Dale A. Rubenstein, D.V.M. t/a Cat Clinic at Seneca** (veterinary hospital). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked. Also included are letters of confirmation from the petitioner and the property owner.

Action: Revoked the special exception as abandoned, (DKP/WMH, 4-0).

9. **S-1554, Petition of Ayub K. Ommaya, M.D.** (non-resident medical practitioner). Memorandum from Barbara Piczak, Inspector, DPS, notifying the Board that the special exception has been abandoned and requesting that it be revoked.

Action: Schedule Show Cause Hearing, (CGT/WMH, 4-0).

10. **S-1735, Petition of Wajeed Khan, M.D.** (non-resident professional office). Letter to the Board from Stanley Abrams, Esquire, withdrawing the administrative modification request and requesting that the referral to the Hearing Examiner be rescinded.

Action: (1) Dismissed the administrative modification as withdrawn; (2) rescinded the referral to the Hearing Examiner, (DKP/WMH, 4-0).

11. **S-1904-A, Petition of Norman Roskin, D.V.M.** (veterinary hospital) Letter from Joseph Lynott, Esquire, submitting a revised site plan as required in Condition No. 3 of the Board's Opinion dated 8/15/08.

Action: Re-opened the record to include the letter from Mr. Lynott with attachment, (CGT/DKP, 4-0).

12. **S-2217, Petition of Shell Oil Company** (automobile filling station). Letter from Stuart Barr, Esquire, submitting materials requested at the 9/10/08 Show Cause Hearing. [Large exhibits: revised site plan, revised lighting plan, revised landscape plan].

Action: (1) Re-opened the record to include the letter from Mr. Barr with attachments; (2) rescinded the Show Cause Hearing, (DKP/CGT, 4-0).

13. **S-2699, Petition of ExxonMobil Corporation** (automobile filling station). Letter to the Board from Michael Aladesuru.

Action: Re-opened the record to include the letter from Mr. Aladesuru, (CGT/WMH, 4-0).

DECISION ITEMS:

14. **S-2453-A and S-2726, Petitions of Academy Child Development Center, Inc.** (child day care facility and private educational institution). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception as amended with conditions, (CGT/DKP, 4-0).

15. **S-2731, Petition of Emily Van Loon and A. Thomas Wolf** (accessory apartment). Hearing Examiner's Report and Recommendation.

Action: (1) Adopted the Hearing Examiner's Report and Recommendation; (2) granted the special exception with conditions, (DKP/WMH, 4-0).

PENDING ITEMS:

16. **A-6114, Appeal of Newland Communities LLC and NNP II – Clarksburg LLC** (Department of Fire and Rescue Services – Notice of Violation dated September 20, 2005). Second Status Report from Todd Brown, Esquire. (1) Re-opened the record to include the Second Status Report from Todd Brown; (2) the Board will receive Status Reports on 1/15/07 and 4/1/07 [W/S 10/25/06]. (1) Re-opened the record to include the status report from Mr. Brown; (2) Mr. Brown to provide a status/progress report to BOA at its 5/2/07 Worksession [W/S 2/28/07]. Status report from Todd Brown, Esquire [W/S 10/17/07]. Re-opened the record to include the status report from Mr. Brown [W/S 4/2/08].

PENDING ITEMS (continued):

17. **A-6190, Appeal of Amanda Enterprises, LLC** (Department of Permitting Services – Notice of Violation dated November 13, 2006 and Use and Occupancy Certificate No. 250849). BOA to receive a status report from the appellant by 6/15/07 [Pre-hearing Conference held on 3/14/07].
18. **CBA-2521-I, Petition of Montgomery General Hospital** (hospital). Letter to the Board from Jody Kline, Esquire, requesting an administrative modification [Large exhibits: existing conditions plan and zoning vicinity map]. Item deferred for Mr. Kline to contact homeowner's association regarding its concerns [W/S 10/8/08].
19. **CBA-2924, Petition of RMC Partnership** (medical and dental clinic). Letter from April Birnbaum, Esquire, submitting the additional information requested by the Board. Item deferred for additional information regarding the chain of corporate transfers [W/S 9/10/08].
20. **S-179, David H. Shin (coffee shop)**. Letter to the Board from Sook Kim requesting a transfer of the special exception (Item deferred for additional information regarding ownership of special exception property, consensus [W/S 6/25/08].
21. **S-274-D, Petition of Suburban Hospital** (hospital). Hearing Examiner's Report and Recommendation on Motion to Dismiss. Item deferred until the Board is fully staffed. [W/S 10/8/08].
22. **S-924, Petition of Thomas E. and Patricia M. Doss** (major home occupation). Letter to the Board from David Brown, Esquire, submitting a special exception site plan. Also included is a letter from the Korean Baptist Church [Large exhibit: site plan]. (1) Re-opened the record to include the letters from Mr. Brown and the Korean Baptist Church; (2) petitioner to supply information requested by the Board at the Show Cause Hearing [W/S 9/24/08].
23. **S-1791, Petition of Melissa Martell Taylor** (private educational institution). Letter to the Board from Terry Lewis requesting a transfer of the special exception. Item deferred for (1) statement of operations; (2) confirmation the special exception will be operated in conformance with the Board's Opinion; (3) confirmation of the special exception holder [W/S 9/10/08].
24. **S-2141, Petition of Bannockburn Swim Club, Inc.** (community swimming pool). Letter from John Chadwick, Pool Board Representative-Improvements, submitting the additional information requested by the Board for an administrative modification [Large exhibit: site plan]. Item deferred to determine if administrative modification is subject to a forest conservation requirement [W/S 4/2/08].

PENDING ITEMS (continued):

25. **S-2145, Petition of Southwestern Bell Mobile Systems, Inc.** (telecommunications facility). Letter to the Board from Karmen Rajamani, Zoning Manager, requesting a transfer of the special exception. Item deferred for confirmation of the transfer from Southwestern Bell Mobil Systems, Inc [W/S 4/30/08].
26. **S-2674, Petition of Reynaldo and Zorayda Lee-Llacer** (accessory apartment). Hearing Examiner's Report and Recommendation. Also included is a letter from John Jassin, M.D., requesting Oral Argument and a letter from Norman Knopf, Esquire, on behalf of Linda and Gregory Locraft. Item deferred pending resolution of the sewer connection issue. BOA to advise County Council.
27. **S-2699 and CBA-1660 [CBA-1660], Petitions of ExxonMobil Corporation** (automobile filling station). Hearing Examiner's Report and Recommendation. Also included is a letter to the Board from Jody Kline, Esquire, requesting oral argument or a rewording of Condition No. 16 in the Hearing Examiner's Report and Recommendation for Case No. S-2699 and requesting that special exception CBA-1660 be revoked as never implemented. (1) Granted request for oral argument; (2) deferred the Hearing Examiner's Report and Recommendation [W/S 9/24/08].

Board Members

Allison Ishihara Fultz, Chair
Catherine G. Titus, Vice Chair
Wendell M. Holloway
David K. Perdue

Staff

Barbara Jay, Associate County Attorney
Katherine Freeman, Executive Director - ABSENT
Hermene Jones, Administrative Specialist